

110TH CONGRESS
2D SESSION

H. R. 6954

To prevent mail, telemarketing, and Internet fraud targeting seniors in the United States, to promote efforts to increase public awareness of the enormous impact that mail, telemarketing, and Internet fraud have on seniors, to educate the public, seniors, their families, and their caregivers about how to identify and combat fraudulent activity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2008

Ms. BALDWIN (for herself, Mr. GOHMERT, Mr. CONYERS, Mr. SMITH of Texas, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent mail, telemarketing, and Internet fraud targeting seniors in the United States, to promote efforts to increase public awareness of the enormous impact that mail, telemarketing, and Internet fraud have on seniors, to educate the public, seniors, their families, and their caregivers about how to identify and combat fraudulent activity, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Senior Financial Em-
3 powerment Act of 2008”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

6 (1) The proportion of the population of the
7 United States age 60 years or older will drastically
8 increase in the next 30 years as more than
9 76,000,000 Baby Boomers approach retirement and
10 old age.

11 (2) Each year, anywhere between 500,000 and
12 5,000,000 seniors in the United States are abused,
13 neglected, or exploited.

14 (3) Senior abuse, neglect, and exploitation have
15 no boundaries, and cross all racial, social class, gen-
16 der, and geographic lines.

17 (4) Millions of individuals in the United States
18 are victims of financial exploitation, including mail,
19 telemarketing, and Internet fraud, each year. Many
20 of those who fall prey to these crimes are seniors.

21 (5) It is difficult to estimate the prevalence of
22 fraud targeting seniors because cases are severely
23 underreported and national statistics on senior fraud
24 do not exist.

25 (6) The Federal Bureau of Investigation notes
26 that senior Americans are less likely to report fraud

1 because they do not know to whom to report, they
2 are ashamed to have been a victim of fraud, or they
3 do not know that they have been a victim of fraud.
4 In some cases, a senior victim of fraud may not re-
5 port the crime because he or she is concerned that
6 relatives may come to the conclusion that the victim
7 no longer has the mental capacity to take care of his
8 or her own financial affairs.

9 (7) Perpetrators of mail, telemarketing, and
10 Internet fraud frequently target seniors because sen-
11 iors are often vulnerable and trusting people.

12 (8) As victims of such fraudulent schemes,
13 many seniors have been robbed of their hard-earned
14 life savings and frequently pay an emotional cost,
15 losing not only their money, but also their self-re-
16 spect and dignity.

17 (9) Perpetrators of fraud targeting seniors
18 often operate outside the United States, reaching
19 their victims through the mail, telephone lines, and
20 the Internet.

21 (10) The Deceptive Mail Prevention and En-
22 forcement Act increased the power of the United
23 States Postal Service to protect consumers against
24 persons who use deceptive mailings, such as those

1 featuring games of chance, sweepstakes, skill con-
2 tests, and facsimile checks.

3 (11) During fiscal year 2007, analysts prepared
4 more than 27,000 letters and informative postcards
5 in response to mail fraud complaints. During that
6 same year, postal inspectors investigated 2,909 mail
7 fraud cases in the United States, and arrested 1,236
8 mail fraud suspects, of whom 1,118 were convicted.
9 Postal inspectors also reported 162 telemarketing
10 fraud investigations, with 83 arrests and 61 convic-
11 tions resulting from such investigations.

12 (12) In 2000, the United States Senate Special
13 Committee on Aging reported that, each year, con-
14 sumers lose approximately \$40,000,000,000 to tele-
15 marketing fraud, and estimated that approximately
16 10 percent of the Nation's 14,000 telemarketing
17 firms were fraudulent. Some researchers estimate
18 that only one in 10,000 fraud victims reports the
19 crime to the authorities.

20 (13) A 2003 report by AARP found that the
21 crime of telemarketing fraud is grossly under-
22 reported among senior victims, but that those who
23 are properly counseled by trained peer volunteers are
24 less likely to fall victim to fraudulent practices.

1 (14) The Federal Bureau of Investigation re-
2 ports that the threat of fraud to seniors is growing
3 and changing. Many younger Baby Boomers have
4 considerable computer skills, and criminals are modi-
5 fying their targeting techniques by using not only
6 traditional telephone calls and mass mailings, but
7 also online scams like phishing and e-mail
8 spamming.

9 (15) The IC3 is a partnership between the Na-
10 tional White Collar Crime Center and the Federal
11 Bureau of Investigation that serves as a vehicle to
12 receive, develop, and refer criminal complaints re-
13 garding cyber crime. The IC3 processed more than
14 219,553 complaints of Internet crime in 2007. From
15 these submissions, the IC3 referred 90,008 com-
16 plaints of Internet crime, representing a total dollar
17 loss of \$239,090,000, to Federal, State, and local
18 law enforcement agencies in the United States for
19 further consideration.

20 (16) Consumer awareness is the best protection
21 from fraud.

22 **SEC. 3. ENHANCED SENTENCING PENALTIES BASED ON**
23 **AGE OF VICTIM.**

24 (a) DIRECTIVE TO THE UNITED STATES SEN-
25 TENCING COMMISSION.—Pursuant to its authority under

1 section 994(p) of title 28, United States Code, and in ac-
2 cordance with this section, the United States Sentencing
3 Commission (referred to in this section as the “Commis-
4 sion”) shall review and, if appropriate, amend the Federal
5 sentencing guidelines and policy statements, including sec-
6 tion 3A1.1 of the Federal sentencing guidelines, to include
7 the age of a crime victim, particularly for senior crime
8 victims, to ensure such guidelines adequately reflect Con-
9 gress’ intent that the age of a crime victim is one of the
10 criteria for determining whether the application of a sen-
11 tencing enhancement is appropriate.

12 (b) REQUIREMENTS.—In carrying out this section,
13 the Commission shall—

14 (1) ensure that the Federal sentencing guide-
15 lines and the policy statements of the Commission
16 reflect the serious economic and physical harms as-
17 sociated with criminal activity targeted at seniors
18 due to their particular vulnerability;

19 (2) consider providing, in appropriate cir-
20 cumstances, increased penalties for persons con-
21 victed of offenses in which the victim was a senior;

22 (3) consult with individuals or groups rep-
23 resenting seniors, law enforcement agencies, victims
24 organizations, and the Federal judiciary as part of
25 the review described in subsection (a);

1 (4) ensure reasonable consistency with other
2 Federal sentencing guidelines and directives;

3 (5) account for any aggravating or mitigating
4 circumstances that may justify exceptions, including
5 circumstances for which the Federal sentencing
6 guidelines provide sentencing enhancements based
7 on the age of the crime victim;

8 (6) make any necessary conforming changes to
9 the Federal sentencing guidelines; and

10 (7) ensure that the Federal sentencing guide-
11 lines adequately meet the purposes of sentencing set
12 forth in section 3553(a)(2) of title 18, United States
13 Code.

14 (c) REPORT.—Not later than one year after the date
15 of enactment of this Act, the Commission shall submit to
16 Congress a report on issues relating to the age of crime
17 victims, which shall include—

18 (1) an explanation of any changes to sentencing
19 policy made by the Commission under this section;
20 and

21 (2) any recommendations of the Commission for
22 retention or modification of penalty levels, including
23 statutory penalty levels, for offenses involving sen-
24 iors.

1 **SEC. 4. GRANTS TO PREVENT MAIL, TELEMARKETING, AND**
2 **INTERNET FRAUD.**

3 (a) GRANT PROGRAM AUTHORIZED.—Subject to the
4 availability of funds authorized to be appropriated under
5 this section, the Attorney General, after consultation with
6 the Secretary of Health and Human Services, the Post-
7 master General, and the Chief Postal Inspector for the
8 United States Postal Inspection Service, shall establish
9 and administer a competitive grant program to award
10 grants to eligible organizations to carry out mail, tele-
11 marketing, and Internet fraud prevention education pro-
12 grams for seniors.

13 (b) ELIGIBLE ORGANIZATIONS.—The Attorney Gen-
14 eral may award grants under this section to State Attor-
15 neys General, State and local law enforcement agencies
16 and groups, senior centers, and other local nonprofit orga-
17 nizations that provide assistance to seniors, as determined
18 by the Attorney General.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$5,000,000 for each of the fiscal years 2009 through
22 2013.

23 **SEC. 5. SENSE OF THE CONGRESS RELATED TO NATIONAL**
24 **SENIOR FRAUD AWARENESS WEEK.**

25 It is the sense of the Congress that—

1 (1) there is a need to increase public awareness
2 of the enormous impact that mail, telemarketing,
3 and Internet fraud has on senior citizens in the
4 United States;

5 (2) a week in the month of May should be des-
6 ignated as “National Senior Fraud Awareness
7 Week”;

8 (3) the people of the United States should ob-
9 serve National Senior Fraud Awareness Week with
10 appropriate educational activities; and

11 (4) the President is encouraged to issue a proc-
12 lamation supporting increased public awareness of
13 the impact of, and the need to prevent, fraud com-
14 mitted against seniors.

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